



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5973

by Rep. Marcus C. Evans, Jr.

SYNOPSIS AS INTRODUCED:

225 ILCS 41/15-75	
225 ILCS 335/9.1	from Ch. 111, par. 7509.1
225 ILCS 410/4-7	from Ch. 111, par. 1704-7
225 ILCS 450/20.01	from Ch. 111, par. 5521.01
225 ILCS 454/20-20	

Amends the Funeral Directors and Embalmers Licensing Code, the Illinois Roofing Industry Licensing Act, the Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985, the Illinois Public Accounting Act, and the Real Estate License Act of 2000. Allows the Department of Financial and Professional Regulation to consider an applicant's prior conviction or convictions, but provides that the conviction or convictions may not be the sole basis for refusing to issue a license unless the crime substantially and directly relates to the occupation for which the license is sought. Requires that if the conviction is used as a basis for rejection, the rejection must be in writing and specifically state the evidence presented and reasons for rejection, which must be substantially and directly related to the licensed activity. Provides specific considerations the Department must use in making its decision for rejection. Provides what the Department shall use as evidence of rehabilitation so that all license rights and privileges granted under the Act, under consideration for issuance or formerly revoked or suspended because of conviction of an offense, are automatically restored unless the Department finds that restoration is not in the public interest. Requires that the Department not consider non-conviction records, convictions that did not result in incarceration, or convictions unrelated to the capacity to serve the public. In provisions concerning grounds for discipline, makes changes concerning disqualifying criminal penalties and delinquent child support.

LRB099 19442 SMS 43834 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Funeral Directors and Embalmers Licensing
5 Code is amended by changing Section 15-75 as follows:

6 (225 ILCS 41/15-75)

7 (Section scheduled to be repealed on January 1, 2023)

8 Sec. 15-75. Violations; grounds for discipline; penalties.

9 (a) Each of the following acts is a Class A misdemeanor for
10 the first offense, and a Class 4 felony for each subsequent
11 offense. These penalties shall also apply to unlicensed owners
12 of funeral homes.

13 (1) Practicing the profession of funeral directing and
14 embalming or funeral directing, or attempting to practice
15 the profession of funeral directing and embalming or
16 funeral directing without a license as a funeral director
17 and embalmer or funeral director.

18 (2) Serving or attempting to serve as an intern under a
19 licensed funeral director and embalmer without a license as
20 a licensed funeral director and embalmer intern.

21 (3) Obtaining or attempting to obtain a license,
22 practice or business, or any other thing of value, by fraud
23 or misrepresentation.

1 (4) Permitting any person in one's employ, under one's
2 control or in or under one's service to serve as a funeral
3 director and embalmer, funeral director, or funeral
4 director and embalmer intern when the person does not have
5 the appropriate license.

6 (5) Failing to display a license as required by this
7 Code.

8 (6) Giving false information or making a false oath or
9 affidavit required by this Code.

10 (b) The Department may refuse to issue or renew, revoke,
11 suspend, place on probation or administrative supervision,
12 reprimand, or take other disciplinary or non-disciplinary
13 action as the Department may deem appropriate, including
14 imposing fines not to exceed \$10,000 for each violation, with
15 regard to any license under the Code for any one or combination
16 of the following:

17 (1) Fraud or any misrepresentation in applying for or
18 procuring a license under this Code or in connection with
19 applying for renewal of a license under this Code.

20 (2) Conviction by plea of guilty or nolo contendere,
21 finding of guilt, jury verdict, or entry of judgment or by
22 sentencing of any crime, including, but not limited to,
23 convictions, preceding sentences of supervision,
24 conditional discharge, or first offender probation, under
25 the laws of any jurisdiction of the United States: (i) that
26 is a felony or (ii) that is a misdemeanor, an essential

1 element of which is dishonesty, or that is directly related
2 to the practice of the profession, and absent mitigating
3 factors and evidence of rehabilitation provided in
4 subsection (b-5) of this Section.

5 (3) Violation of the laws of this State relating to the
6 funeral, burial or disposition of deceased human bodies or
7 of the rules and regulations of the Department, or the
8 Department of Public Health.

9 (4) Directly or indirectly paying or causing to be paid
10 any sum of money or other valuable consideration for the
11 securing of business or for obtaining authority to dispose
12 of any deceased human body.

13 (5) Professional incompetence, gross negligence,
14 malpractice, or untrustworthiness in the practice of
15 funeral directing and embalming or funeral directing.

16 (6) (Blank).

17 (7) Engaging in, promoting, selling, or issuing burial
18 contracts, burial certificates, or burial insurance
19 policies in connection with the profession as a funeral
20 director and embalmer, funeral director, or funeral
21 director and embalmer intern in violation of any laws of
22 the State of Illinois.

23 (8) Refusing, without cause, to surrender the custody
24 of a deceased human body upon the proper request of the
25 person or persons lawfully entitled to the custody of the
26 body.

1 (9) Taking undue advantage of a client or clients as to
2 amount to the perpetration of fraud.

3 (10) Engaging in funeral directing and embalming or
4 funeral directing without a license.

5 (11) Encouraging, requesting, or suggesting by a
6 licensee or some person working on his behalf and with his
7 consent for compensation that a person utilize the services
8 of a certain funeral director and embalmer, funeral
9 director, or funeral establishment unless that information
10 has been expressly requested by the person. This does not
11 prohibit general advertising or pre-need solicitation.

12 (12) Making or causing to be made any false or
13 misleading statements about the laws concerning the
14 disposition of human remains, including, but not limited
15 to, the need to embalm, the need for a casket for cremation
16 or the need for an outer burial container.

17 (13) (Blank).

18 (14) Embalming or attempting to embalm a deceased human
19 body without express prior authorization of the person
20 responsible for making the funeral arrangements for the
21 body. This does not apply to cases where embalming is
22 directed by local authorities who have jurisdiction or when
23 embalming is required by State or local law. A licensee may
24 embalm without express prior authorization if a good faith
25 effort has been made to contact family members and has been
26 unsuccessful and the licensee has no reason to believe the

1 family opposes embalming.

2 (15) Making a false statement on a Certificate of Death
3 where the person making the statement knew or should have
4 known that the statement was false.

5 (16) Soliciting human bodies after death or while death
6 is imminent.

7 (17) Performing any act or practice that is a violation
8 of this Code, the rules for the administration of this
9 Code, or any federal, State or local laws, rules, or
10 regulations governing the practice of funeral directing or
11 embalming.

12 (18) Performing any act or practice that is a violation
13 of Section 2 of the Consumer Fraud and Deceptive Business
14 Practices Act.

15 (19) Engaging in dishonorable, unethical, or
16 unprofessional conduct of a character likely to deceive,
17 defraud or harm the public.

18 (20) Taking possession of a dead human body without
19 having first obtained express permission from the person
20 holding the right to control the disposition in accordance
21 with Section 5 of the Disposition of Remains Act or a
22 public agency legally authorized to direct, control or
23 permit the removal of deceased human bodies.

24 (21) Advertising in a false or misleading manner or
25 advertising using the name of an unlicensed person in
26 connection with any service being rendered in the practice

1 of funeral directing or funeral directing and embalming.
2 The use of any name of an unlicensed or unregistered person
3 in an advertisement so as to imply that the person will
4 perform services is considered misleading advertising.
5 Nothing in this paragraph shall prevent including the name
6 of any owner, officer or corporate director of a funeral
7 home, who is not a licensee, in any advertisement used by a
8 funeral home with which the individual is affiliated, if
9 the advertisement specifies the individual's affiliation
10 with the funeral home.

11 (22) Charging for professional services not rendered,
12 including filing false statements for the collection of
13 fees for which services are not rendered.

14 (23) Failing to account for or remit any monies,
15 documents, or personal property that belongs to others that
16 comes into a licensee's possession.

17 (24) Treating any person differently to his detriment
18 because of race, color, creed, gender, religion, or
19 national origin.

20 (25) Knowingly making any false statements, oral or
21 otherwise, of a character likely to influence, persuade or
22 induce others in the course of performing professional
23 services or activities.

24 (26) Willfully making or filing false records or
25 reports in the practice of funeral directing and embalming,
26 including, but not limited to, false records filed with

1 State agencies or departments.

2 (27) Failing to acquire continuing education required
3 under this Code.

4 (28) (Blank).

5 (29) Aiding or assisting another person in violating
6 any provision of this Code or rules adopted pursuant to
7 this Code.

8 (30) Failing within 10 days, to provide information in
9 response to a written request made by the Department.

10 (31) Discipline by another state, District of
11 Columbia, territory, foreign nation, or governmental
12 agency, if at least one of the grounds for the discipline
13 is the same or substantially equivalent to those set forth
14 in this Section.

15 (32) (Blank).

16 (33) Mental illness or disability which results in the
17 inability to practice the profession with reasonable
18 judgment, skill, or safety.

19 (34) Gross, willful, or continued overcharging for
20 professional services, including filing false statements
21 for collection of fees for which services are not rendered.

22 (35) Physical illness, including, but not limited to,
23 deterioration through the aging process or loss of motor
24 skill which results in a licensee's inability to practice
25 under this Code with reasonable judgment, skill, or safety.

26 (36) Failing to comply with any of the following

1 required activities:

2 (A) When reasonably possible, a funeral director
3 licensee or funeral director and embalmer licensee or
4 anyone acting on his or her behalf shall obtain the
5 express authorization of the person or persons
6 responsible for making the funeral arrangements for a
7 deceased human body prior to removing a body from the
8 place of death or any place it may be or embalming or
9 attempting to embalm a deceased human body, unless
10 required by State or local law. This requirement is
11 waived whenever removal or embalming is directed by
12 local authorities who have jurisdiction. If the
13 responsibility for the handling of the remains
14 lawfully falls under the jurisdiction of a public
15 agency, then the regulations of the public agency shall
16 prevail.

17 (B) A licensee shall clearly mark the price of any
18 casket offered for sale or the price of any service
19 using the casket on or in the casket if the casket is
20 displayed at the funeral establishment. If the casket
21 is displayed at any other location, regardless of
22 whether the licensee is in control of that location,
23 the casket shall be clearly marked and the registrant
24 shall use books, catalogues, brochures, or other
25 printed display aids to show the price of each casket
26 or service.

1 (C) At the time funeral arrangements are made and
2 prior to rendering the funeral services, a licensee
3 shall furnish a written statement of services to be
4 retained by the person or persons making the funeral
5 arrangements, signed by both parties, that shall
6 contain: (i) the name, address and telephone number of
7 the funeral establishment and the date on which the
8 arrangements were made; (ii) the price of the service
9 selected and the services and merchandise included for
10 that price; (iii) a clear disclosure that the person or
11 persons making the arrangement may decline and receive
12 credit for any service or merchandise not desired and
13 not required by law or the funeral director or the
14 funeral director and embalmer; (iv) the supplemental
15 items of service and merchandise requested and the
16 price of each item; (v) the terms or method of payment
17 agreed upon; and (vi) a statement as to any monetary
18 advances made by the registrant on behalf of the
19 family. The licensee shall maintain a copy of the
20 written statement of services in its permanent
21 records. All written statements of services are
22 subject to inspection by the Department.

23 (D) In all instances where the place of final
24 disposition of a deceased human body or the cremated
25 remains of a deceased human body is a cemetery, the
26 licensed funeral director and embalmer, or licensed

1 funeral director, who has been engaged to provide
2 funeral or embalming services shall remain at the
3 cemetery and personally witness the placement of the
4 human remains in their designated grave or the sealing
5 of the above ground depository, crypt, or urn. The
6 licensed funeral director or licensed funeral director
7 and embalmer may designate a licensed funeral director
8 and embalmer intern or representative of the funeral
9 home to be his or her witness to the placement of the
10 remains. If the cemetery authority, cemetery manager,
11 or any other agent of the cemetery takes any action
12 that prevents compliance with this paragraph (D), then
13 the funeral director and embalmer or funeral director
14 shall provide written notice to the Department within 5
15 business days after failing to comply. If the
16 Department receives this notice, then the Department
17 shall not take any disciplinary action against the
18 funeral director and embalmer or funeral director for a
19 violation of this paragraph (D) unless the Department
20 finds that the cemetery authority, manager, or any
21 other agent of the cemetery did not prevent the funeral
22 director and embalmer or funeral director from
23 complying with this paragraph (D) as claimed in the
24 written notice.

25 (E) A funeral director or funeral director and
26 embalmer shall fully complete the portion of the

1 Certificate of Death under the responsibility of the
2 funeral director or funeral director and embalmer and
3 provide all required information. In the event that any
4 reported information subsequently changes or proves
5 incorrect, a funeral director or funeral director and
6 embalmer shall immediately upon learning the correct
7 information correct the Certificate of Death.

8 (37) A finding by the Department that the license,
9 after having his or her license placed on probationary
10 status or subjected to conditions or restrictions,
11 violated the terms of the probation or failed to comply
12 with such terms or conditions.

13 (38) (Blank).

14 (39) Being named as a perpetrator in an indicated
15 report by the Department of Children and Family Services
16 pursuant to the Abused and Neglected Child Reporting Act
17 and, upon proof by clear and convincing evidence, being
18 found to have caused a child to be an abused child or
19 neglected child as defined in the Abused and Neglected
20 Child Reporting Act.

21 (40) Habitual or excessive use or abuse of drugs
22 defined in law as controlled substances, alcohol, or any
23 other substance which results in the inability to practice
24 with reasonable judgment, skill, or safety.

25 (41) Practicing under a false or, except as provided by
26 law, an assumed name.

1 (42) Cheating on or attempting to subvert the licensing
2 examination administered under this Code.

3 (b-5) When issuing a license, the Department may consider
4 an applicant's conviction or convictions but a prior conviction
5 or convictions alone may not be the basis for refusing to issue
6 a license unless the crime for which he or she was convicted
7 substantially and directly relates to the occupation for which
8 the license is sought.

9 If the conviction or convictions are used as a basis for
10 rejection of an application, it must be in writing and
11 specifically state the evidence presented and reasons for
12 rejection, which must be substantially and directly related to
13 the licensed activity. The Department must consider:

14 (1) the bearing, if any, the criminal offenses or
15 offenses for which the person was previously convicted will
16 have on his or her fitness or ability to perform one or
17 more such duties and responsibilities;

18 (2) the time which has elapsed since the occurrence of
19 the criminal offense or offenses;

20 (3) the age of the person at the time of occurrence of
21 the criminal offense or offenses;

22 (4) the seriousness of the offense or offenses; and

23 (5) any information produced by the person or produced
24 on his or her behalf in regard to his or her rehabilitation
25 and good conduct that creates a presumption of
26 rehabilitation.

1 For the purpose of issuance, renewal, or restoration of a
2 license, completion of a sentence of imprisonment or discharge
3 from probation, conditional discharge from probation, or
4 periodic imprisonment shall be treated as evidence of
5 rehabilitation so that all license rights and privileges
6 granted under this Act, under consideration for issuance, or
7 formerly revoked or suspended because of conviction of an
8 offense are automatically restored unless the Department finds
9 after investigation and consideration of guidelines provided
10 in items (1) through (4) of this subsection (b-5) that
11 restoration is not in the public interest.

12 The Department shall not consider non-conviction records,
13 convictions that did not result in incarceration, or
14 convictions unrelated to the capacity to serve the public.

15 (c) The Department may refuse to issue or renew or may
16 suspend without a hearing, as provided for in the Department of
17 Professional Regulation Law of the Civil Administrative Code of
18 Illinois, the license of any person who fails to file a return,
19 to pay the tax, penalty or interest shown in a filed return, or
20 to pay any final assessment of tax, penalty or interest as
21 required by any tax Act administered by the Illinois Department
22 of Revenue, until the time as the requirements of the tax Act
23 are satisfied in accordance with subsection (g) of Section
24 2105-15 of the Department of Professional Regulation Law of the
25 Civil Administrative Code of Illinois.

26 (d) No action may be taken under this Code against a person

1 licensed under this Code unless the action is commenced within
2 5 years after the occurrence of the alleged violations. A
3 continuing violation shall be deemed to have occurred on the
4 date when the circumstances last existed that give rise to the
5 alleged violation.

6 (e) Nothing in this Section shall be construed or enforced
7 to give a funeral director and embalmer, or his or her
8 designees, authority over the operation of a cemetery or over
9 cemetery employees. Nothing in this Section shall be construed
10 or enforced to impose duties or penalties on cemeteries with
11 respect to the timing of the placement of human remains in
12 their designated grave or the sealing of the above ground
13 depository, crypt, or urn due to patron safety, the allocation
14 of cemetery staffing, liability insurance, a collective
15 bargaining agreement, or other such reasons.

16 (f) All fines imposed under this Section shall be paid 60
17 days after the effective date of the order imposing the fine.

18 (g) The Department shall deny a license or renewal
19 authorized by this Code to a person who has defaulted on an
20 educational loan or scholarship provided or guaranteed by the
21 Illinois Student Assistance Commission or any governmental
22 agency of this State in accordance with item (5) of subsection
23 (a) of Section 2105-15 of the Department of Professional
24 Regulation Law of the Civil Administrative Code of Illinois.

25 (h) In cases where the Department of Healthcare and Family
26 Services has previously determined a licensee or a potential

1 licensee is more than 30 days delinquent in the payment of
2 child support and has subsequently certified the delinquency to
3 the Department, the Department may refuse to issue or renew or
4 may revoke or suspend that person's license or may take other
5 disciplinary action against that person based solely upon the
6 certification of delinquency made by the Department of
7 Healthcare and Family Services in accordance with item (5) of
8 subsection (a) of Section 2105-15 of the Department of
9 Professional Regulation Law of the Civil Administrative Code of
10 Illinois unless, upon notification, the licensee demonstrates
11 an inability to pay and agrees to enter into a reasonable
12 payment plan.

13 Notwithstanding the provisions of this subsection, the
14 Department may not refuse to issue a license to a potential
15 licensee who is an obligor because the obligor's child support
16 arrearage equals or exceeds the amount of child support payable
17 for 6 months. When an occupational license is issued to an
18 applicant to whom this paragraph applies, the Department shall
19 send a written notice to the obligor following the issuance of
20 a license, advising the obligor that they obligor's license may
21 be revoked or suspended unless within 30 days of the postmarked
22 date of the notice, the obligor demonstrates an previous
23 inability to pay and enters into a reasonable payment plan.

24 (i) A person not licensed under this Code who is an owner
25 of a funeral establishment or funeral business shall not aid,
26 abet, assist, procure, advise, employ, or contract with any

1 unlicensed person to offer funeral services or aid, abet,
2 assist, or direct any licensed person contrary to or in
3 violation of any rules or provisions of this Code. A person
4 violating this subsection shall be treated as a licensee for
5 the purposes of disciplinary action under this Section and
6 shall be subject to cease and desist orders as provided in this
7 Code, the imposition of a fine up to \$10,000 for each violation
8 and any other penalty provided by law.

9 (j) The determination by a circuit court that a licensee is
10 subject to involuntary admission or judicial admission as
11 provided in the Mental Health and Developmental Disabilities
12 Code, as amended, operates as an automatic suspension. The
13 suspension may end only upon a finding by a court that the
14 licensee is no longer subject to the involuntary admission or
15 judicial admission and issues an order so finding and
16 discharging the licensee, and upon the recommendation of the
17 Board to the Secretary that the licensee be allowed to resume
18 his or her practice.

19 (k) In enforcing this Code, the Department, upon a showing
20 of a possible violation, may compel an individual licensed to
21 practice under this Code, or who has applied for licensure
22 under this Code, to submit to a mental or physical examination,
23 or both, as required by and at the expense of the Department.
24 The Department may order the examining physician to present
25 testimony concerning the mental or physical examination of the
26 licensee or applicant. No information shall be excluded by

1 reason of any common law or statutory privilege relating to
2 communications between the licensee or applicant and the
3 examining physician. The examining physician shall be
4 specifically designated by the Department. The individual to be
5 examined may have, at his or her own expense, another physician
6 of his or her choice present during all aspects of this
7 examination. The examination shall be performed by a physician
8 licensed to practice medicine in all its branches. Failure of
9 an individual to submit to a mental or physical examination,
10 when directed, shall result in an automatic suspension without
11 hearing.

12 A person holding a license under this Code or who has
13 applied for a license under this Code who, because of a
14 physical or mental illness or disability, including, but not
15 limited to, deterioration through the aging process or loss of
16 motor skill, is unable to practice the profession with
17 reasonable judgment, skill, or safety, may be required by the
18 Department to submit to care, counseling, or treatment by
19 physicians approved or designated by the Department as a
20 condition, term, or restriction for continued, reinstated, or
21 renewed licensure to practice. Submission to care, counseling,
22 or treatment as required by the Department shall not be
23 considered discipline of a license. If the licensee refuses to
24 enter into a care, counseling, or treatment agreement or fails
25 to abide by the terms of the agreement, the Department may file
26 a complaint to revoke, suspend, or otherwise discipline the

1 license of the individual. The Secretary may order the license
2 suspended immediately, pending a hearing by the Department.
3 Fines shall not be assessed in disciplinary actions involving
4 physical or mental illness or impairment.

5 In instances in which the Secretary immediately suspends a
6 person's license under this Section, a hearing on that person's
7 license must be convened by the Department within 15 days after
8 the suspension and completed without appreciable delay. The
9 Department shall have the authority to review the subject
10 individual's record of treatment and counseling regarding the
11 impairment to the extent permitted by applicable federal
12 statutes and regulations safeguarding the confidentiality of
13 medical records.

14 An individual licensed under this Code and affected under
15 this Section shall be afforded an opportunity to demonstrate to
16 the Department that he or she can resume practice in compliance
17 with acceptable and prevailing standards under the provisions
18 of his or her license.

19 (Source: P.A. 97-1130, eff. 8-28-12; 98-756, eff. 7-16-14.)

20 Section 10. The Illinois Roofing Industry Licensing Act is
21 amended by changing Section 9.1 as follows:

22 (225 ILCS 335/9.1) (from Ch. 111, par. 7509.1)

23 (Section scheduled to be repealed on January 1, 2026)

24 Sec. 9.1. Grounds for disciplinary action.

1 (1) The Department may refuse to issue or to renew, or may
2 revoke, suspend, place on probation, reprimand or take other
3 disciplinary or non-disciplinary action as the Department may
4 deem proper, including fines not to exceed \$10,000 for each
5 violation, with regard to any license for any one or
6 combination of the following:

7 (a) violation of this Act or its rules;

8 (b) conviction or plea of guilty or nolo contendere,
9 finding of guilt, jury verdict, or entry of judgment or
10 sentencing of any crime, including, but not limited to,
11 convictions, preceding sentences of supervision,
12 conditional discharge, or first offender probation, under
13 the laws of any jurisdiction of the United States that is
14 ~~(i)~~ a felony or ~~(ii)~~ a misdemeanor, an essential element of
15 which is dishonesty or that is directly related to the
16 practice of the profession, and absent mitigating factors
17 and evidence of rehabilitation provided in subsection
18 (1.5) of this Section;

19 (c) fraud or any misrepresentation in applying for or
20 procuring a license under this Act, or in connection with
21 applying for renewal of a license under this Act;

22 (d) professional incompetence or gross negligence in
23 the practice of roofing contracting, prima facie evidence
24 of which may be a conviction or judgment in any court of
25 competent jurisdiction against an applicant or licensee
26 relating to the practice of roofing contracting or the

1 construction of a roof or repair thereof that results in
2 leakage within 90 days after the completion of such work;

3 (e) (blank);

4 (f) aiding or assisting another person in violating any
5 provision of this Act or rules;

6 (g) failing, within 60 days, to provide information in
7 response to a written request made by the Department;

8 (h) engaging in dishonorable, unethical, or
9 unprofessional conduct of a character likely to deceive,
10 defraud, or harm the public;

11 (i) habitual or excessive use or abuse of controlled
12 substances, as defined by the Illinois Controlled
13 Substances Act, alcohol, or any other substance that
14 results in the inability to practice with reasonable
15 judgment, skill, or safety;

16 (j) discipline by another state, unit of government, or
17 government agency, the District of Columbia, a territory,
18 or a foreign nation, if at least one of the grounds for the
19 discipline is the same or substantially equivalent to those
20 set forth in this Section;

21 (k) directly or indirectly giving to or receiving from
22 any person, firm, corporation, partnership, or association
23 any fee, commission, rebate, or other form of compensation
24 for any professional services not actually or personally
25 rendered;

26 (l) a finding by the Department that the licensee,

1 after having his or her license disciplined, has violated
2 the terms of the discipline;

3 (m) a finding by any court of competent jurisdiction,
4 either within or without this State, of any violation of
5 any law governing the practice of roofing contracting, if
6 the Department determines, after investigation, that such
7 person has not been sufficiently rehabilitated to warrant
8 the public trust;

9 (n) willfully making or filing false records or reports
10 in the practice of roofing contracting, including, but not
11 limited to, false records filed with the State agencies or
12 departments;

13 (o) practicing, attempting to practice, or advertising
14 under a name other than the full name as shown on the
15 license or any other legally authorized name;

16 (p) gross and willful overcharging for professional
17 services including filing false statements for collection
18 of fees or monies for which services are not rendered;

19 (q) (blank);

20 (r) (blank);

21 (s) failure to continue to meet the requirements of
22 this Act shall be deemed a violation;

23 (t) physical or mental disability, including
24 deterioration through the aging process or loss of
25 abilities and skills that result in an inability to
26 practice the profession with reasonable judgment, skill,

1 or safety;

2 (u) material misstatement in furnishing information to
3 the Department or to any other State agency;

4 (v) (blank);

5 (w) advertising in any manner that is false,
6 misleading, or deceptive;

7 (x) taking undue advantage of a customer, which results
8 in the perpetration of a fraud;

9 (y) performing any act or practice that is a violation
10 of the Consumer Fraud and Deceptive Business Practices Act;

11 (z) engaging in the practice of roofing contracting, as
12 defined in this Act, with a suspended, revoked, or
13 cancelled license;

14 (aa) treating any person differently to the person's
15 detriment because of race, color, creed, gender, age,
16 religion, or national origin;

17 (bb) knowingly making any false statement, oral,
18 written, or otherwise, of a character likely to influence,
19 persuade, or induce others in the course of obtaining or
20 performing roofing contracting services;

21 (cc) violation of any final administrative action of
22 the Secretary;

23 (dd) allowing the use of his or her roofing license by
24 an unlicensed roofing contractor for the purposes of
25 providing roofing or waterproofing services; or

26 (ee) (blank);

1 (ff) cheating or attempting to subvert a licensing
2 examination administered under this Act; or

3 (gg) use of a license to permit or enable an unlicensed
4 person to provide roofing contractor services.

5 (1.5) When issuing a license, the Department may consider
6 an applicant's conviction or convictions but a prior conviction
7 or convictions alone may not be the basis for refusing to issue
8 a license unless the crime for which he or she was convicted
9 substantially and directly relates to the occupation for which
10 the license is sought.

11 If the conviction or convictions are used as a basis for
12 rejection of an application, it must be in writing and
13 specifically state the evidence presented and reasons for
14 rejection, which must be substantially and directly related to
15 the licensed activity. The Department must consider:

16 (a) the bearing, if any, the criminal offenses or
17 offenses for which the person was previously convicted will
18 have on his or her fitness or ability to perform one or
19 more such duties and responsibilities;

20 (b) the time which has elapsed since the occurrence of
21 the criminal offense or offenses;

22 (c) the age of the person at the time of occurrence of
23 the criminal offense or offenses;

24 (d) the seriousness of the offense or offenses; and

25 (e) any information produced by the person or produced
26 on his or her behalf in regard to his or her rehabilitation

1 and good conduct that creates a presumption of
2 rehabilitation.

3 For the purpose of issuance, renewal, or restoration of a
4 license, completion of a sentence of imprisonment or discharge
5 from probation, conditional discharge from probation, or
6 periodic imprisonment shall be treated as evidence of
7 rehabilitation so that all license rights and privileges
8 granted under this Act, under consideration for issuance, or
9 formerly revoked or suspended because of conviction of an
10 offense are automatically restored unless the Department finds
11 after investigation and consideration of guidelines provided
12 in items (1) through (4) of this subsection (1.5) that
13 restoration is not in the public interest.

14 The Department shall not consider non-conviction records,
15 convictions that did not result in incarceration, or
16 convictions unrelated to the capacity to serve the public.

17 (2) The determination by a circuit court that a license
18 holder is subject to involuntary admission or judicial
19 admission, as provided in the Mental Health and Developmental
20 Disabilities Code, operates as an automatic suspension. Such
21 suspension will end only upon a finding by a court that the
22 patient is no longer subject to involuntary admission or
23 judicial admission, an order by the court so finding and
24 discharging the patient, and the recommendation of the Board to
25 the Director that the license holder be allowed to resume his
26 or her practice.

1 (3) The Department may refuse to issue or take disciplinary
2 action concerning the license of any person who fails to file a
3 return, to pay the tax, penalty, or interest shown in a filed
4 return, or to pay any final assessment of tax, penalty, or
5 interest as required by any tax Act administered by the
6 Department of Revenue, until such time as the requirements of
7 any such tax Act are satisfied as determined by the Department
8 of Revenue.

9 (4) In enforcing this Section, the Department, upon a
10 showing of a possible violation, may compel any individual who
11 is licensed under this Act or any individual who has applied
12 for licensure to submit to a mental or physical examination or
13 evaluation, or both, which may include a substance abuse or
14 sexual offender evaluation, at the expense of the Department.
15 The Department shall specifically designate the examining
16 physician licensed to practice medicine in all of its branches
17 or, if applicable, the multidisciplinary team involved in
18 providing the mental or physical examination and evaluation.
19 The multidisciplinary team shall be led by a physician licensed
20 to practice medicine in all of its branches and may consist of
21 one or more or a combination of physicians licensed to practice
22 medicine in all of its branches, licensed chiropractic
23 physicians, licensed clinical psychologists, licensed clinical
24 social workers, licensed clinical professional counselors, and
25 other professional and administrative staff. Any examining
26 physician or member of the multidisciplinary team may require

1 any person ordered to submit to an examination and evaluation
2 pursuant to this Section to submit to any additional
3 supplemental testing deemed necessary to complete any
4 examination or evaluation process, including, but not limited
5 to, blood testing, urinalysis, psychological testing, or
6 neuropsychological testing.

7 (5) The Department may order the examining physician or any
8 member of the multidisciplinary team to provide to the
9 Department any and all records, including business records,
10 that relate to the examination and evaluation, including any
11 supplemental testing performed. The Department may order the
12 examining physician or any member of the multidisciplinary team
13 to present testimony concerning this examination and
14 evaluation of the licensee or applicant, including testimony
15 concerning any supplemental testing or documents relating to
16 the examination and evaluation. No information, report,
17 record, or other documents in any way related to the
18 examination and evaluation shall be excluded by reason of any
19 common law or statutory privilege relating to communication
20 between the licensee or applicant and the examining physician
21 or any member of the multidisciplinary team. No authorization
22 is necessary from the licensee or applicant ordered to undergo
23 an evaluation and examination for the examining physician or
24 any member of the multidisciplinary team to provide
25 information, reports, records, or other documents or to provide
26 any testimony regarding the examination and evaluation. The

1 individual to be examined may have, at his or her own expense,
2 another physician of his or her choice present during all
3 aspects of the examination.

4 (6) Failure of any individual to submit to mental or
5 physical examination or evaluation, or both, when directed,
6 shall result in an automatic suspension without hearing until
7 such time as the individual submits to the examination. If the
8 Department finds a licensee unable to practice because of the
9 reasons set forth in this Section, the Department shall require
10 the licensee to submit to care, counseling, or treatment by
11 physicians approved or designated by the Department as a
12 condition for continued, reinstated, or renewed licensure.

13 (7) When the Secretary immediately suspends a license under
14 this Section, a hearing upon such person's license must be
15 convened by the Department within 15 days after the suspension
16 and completed without appreciable delay. The Department shall
17 have the authority to review the licensee's record of treatment
18 and counseling regarding the impairment to the extent permitted
19 by applicable federal statutes and regulations safeguarding
20 the confidentiality of medical records.

21 (8) Licensees affected under this Section shall be afforded
22 an opportunity to demonstrate to the Department that they can
23 resume practice in compliance with acceptable and prevailing
24 standards under the provisions of their license.

25 (9) The Department shall deny a license or renewal
26 authorized by this Act to a person who has defaulted on an

1 educational loan or scholarship provided or guaranteed by the
2 Illinois Student Assistance Commission or any governmental
3 agency of this State in accordance with paragraph (5) of
4 subsection (a) of Section 2105-15 of the Department of
5 Professional Regulation Law of the Civil Administrative Code of
6 Illinois.

7 (10) In cases where the Department of Healthcare and Family
8 Services has previously determined a licensee or a potential
9 licensee is more than 30 days delinquent in the payment of
10 child support and has subsequently certified the delinquency to
11 the Department, the Department may refuse to issue or renew or
12 may revoke or suspend that person's license or may take other
13 disciplinary action against that person based solely upon the
14 certification of delinquency made by the Department of
15 Healthcare and Family Services in accordance with paragraph (5)
16 of subsection (a) of Section 2105-15 of the Department of
17 Professional Regulation Law of the Civil Administrative Code of
18 Illinois unless, upon notification, the licensee demonstrates
19 an inability to pay and agrees to enter into a reasonable
20 payment plan.

21 Notwithstanding the provisions of this subsection, the
22 Department may not refuse to issue a license to a potential
23 licensee who is an obligor because the obligor's child support
24 arrearage equals or exceeds the amount of child support payable
25 for 6 months. When an occupational license is issued to an
26 applicant to whom this paragraph applies, the Department shall

1 send a written notice to the obligor following the issuance of
2 a license, advising the obligor that they obligor's license may
3 be revoked or suspended unless within 30 days of the postmarked
4 date of the notice, the obligor demonstrates an previous
5 inability to pay and enters into a reasonable payment plan.

6 The changes to this Act made by this amendatory Act of 1997
7 apply only to disciplinary actions relating to events occurring
8 after the effective date of this amendatory Act of 1997.

9 (Source: P.A. 99-469, eff. 8-26-15.)

10 Section 15. The Barber, Cosmetology, Esthetics, Hair
11 Braiding, and Nail Technology Act of 1985 is amended by
12 changing Section 4-7 as follows:

13 (225 ILCS 410/4-7) (from Ch. 111, par. 1704-7)

14 (Section scheduled to be repealed on January 1, 2026)

15 Sec. 4-7. Refusal, suspension and revocation of licenses;
16 causes; disciplinary action.

17 (1) The Department may refuse to issue or renew, and may
18 suspend, revoke, place on probation, reprimand or take any
19 other disciplinary or non-disciplinary action as the
20 Department may deem proper, including civil penalties not to
21 exceed \$500 for each violation, with regard to any license for
22 any one, or any combination, of the following causes:

23 a. Conviction of any crime under the laws of the United
24 States or any state or territory thereof that is ~~(i)~~ a

1 felony, ~~(ii)~~ a misdemeanor, an essential element of which
2 is dishonesty, or (iii) a crime which is related to the
3 practice of the profession, and absent mitigating factors
4 and evidence of rehabilitation provided in subsection
5 (1.5) of this Section.

6 b. Conviction of any of the violations listed in
7 Section 4-20.

8 c. Material misstatement in furnishing information to
9 the Department.

10 d. Making any misrepresentation for the purpose of
11 obtaining a license or violating any provision of this Act
12 or its rules.

13 e. Aiding or assisting another person in violating any
14 provision of this Act or its rules.

15 f. Failing, within 60 days, to provide information in
16 response to a written request made by the Department.

17 g. Discipline by another state, territory, or country
18 if at least one of the grounds for the discipline is the
19 same as or substantially equivalent to those set forth in
20 this Act.

21 h. Practice in the barber, nail technology, esthetics,
22 hair braiding, or cosmetology profession, or an attempt to
23 practice in those professions, by fraudulent
24 misrepresentation.

25 i. Gross malpractice or gross incompetency.

26 j. Continued practice by a person knowingly having an

1 infectious or contagious disease.

2 k. Solicitation of professional services by using
3 false or misleading advertising.

4 l. A finding by the Department that the licensee, after
5 having his or her license placed on probationary status,
6 has violated the terms of probation.

7 m. Directly or indirectly giving to or receiving from
8 any person, firm, corporation, partnership or association
9 any fee, commission, rebate, or other form of compensation
10 for any professional services not actually or personally
11 rendered.

12 n. Violating any of the provisions of this Act or rules
13 adopted pursuant to this Act.

14 o. Willfully making or filing false records or reports
15 relating to a licensee's practice, including but not
16 limited to, false records filed with State agencies or
17 departments.

18 p. Habitual or excessive use or addiction to alcohol,
19 narcotics, stimulants, or any other chemical agent or drug
20 that results in the inability to practice with reasonable
21 judgment, skill or safety.

22 q. Engaging in dishonorable, unethical or
23 unprofessional conduct of a character likely to deceive,
24 defraud, or harm the public as may be defined by rules of
25 the Department, or violating the rules of professional
26 conduct which may be adopted by the Department.

1 r. Permitting any person to use for any unlawful or
2 fraudulent purpose one's diploma or license or certificate
3 of registration as a cosmetologist, nail technician,
4 esthetician, hair braider, or barber or cosmetology, nail
5 technology, esthetics, hair braiding, or barber teacher or
6 salon or shop or cosmetology clinic teacher.

7 s. Being named as a perpetrator in an indicated report
8 by the Department of Children and Family Services under the
9 Abused and Neglected Child Reporting Act and upon proof by
10 clear and convincing evidence that the licensee has caused
11 a child to be an abused child or neglected child as defined
12 in the Abused and Neglected Child Reporting Act.

13 t. Operating a salon or shop without a valid
14 registration.

15 u. Failure to complete required continuing education
16 hours.

17 (1.5) When issuing a license, the Department may consider
18 an applicant's conviction or convictions but a prior conviction
19 or convictions alone may not be the basis for refusing to issue
20 a license unless the crime for which he or she was convicted
21 substantially and directly relates to the occupation for which
22 the license is sought.

23 If the conviction or convictions are used as a basis for
24 rejection of an application, it must be in writing and
25 specifically state the evidence presented and reasons for
26 rejection, which must be substantially and directly related to

1 the licensed activity. The Department must consider:

2 (a) the bearing, if any, the criminal offenses or
3 offenses for which the person was previously convicted will
4 have on his or her fitness or ability to perform one or
5 more such duties and responsibilities;

6 (b) the time which has elapsed since the occurrence of
7 the criminal offense or offenses;

8 (c) the age of the person at the time of occurrence of
9 the criminal offense or offenses;

10 (d) the seriousness of the offense or offenses; and

11 (e) any information produced by the person or produced
12 on his or her behalf in regard to his or her rehabilitation
13 and good conduct that creates a presumption of
14 rehabilitation.

15 For the purpose of issuance, renewal, or restoration of a
16 license, completion of a sentence of imprisonment or discharge
17 from probation, conditional discharge from probation, or
18 periodic imprisonment shall be treated as evidence of
19 rehabilitation so that all license rights and privileges
20 granted under this Act, under consideration for issuance, or
21 formerly revoked or suspended because of conviction of an
22 offense are automatically restored unless the Department finds
23 after investigation and consideration of guidelines provided
24 in items (1) through (4) of this subsection (1.5) that
25 restoration is not in the public interest.

26 The Department shall not consider non-conviction records,

1 convictions that did not result in incarceration, or
2 convictions unrelated to the capacity to serve the public.

3 (2) In rendering an order, the Secretary shall take into
4 consideration the facts and circumstances involving the type of
5 acts or omissions in paragraph (1) of this Section including,
6 but not limited to:

7 (a) the extent to which public confidence in the
8 cosmetology, nail technology, esthetics, hair braiding, or
9 barbering profession was, might have been, or may be,
10 injured;

11 (b) the degree of trust and dependence among the
12 involved parties;

13 (c) the character and degree of harm which did result
14 or might have resulted;

15 (d) the intent or mental state of the licensee at the
16 time of the acts or omissions.

17 (3) The Department may reissue the license or registration
18 upon certification by the Board that the disciplined licensee
19 or registrant has complied with all of the terms and conditions
20 set forth in the final order or has been sufficiently
21 rehabilitated to warrant the public trust.

22 (4) The Department shall refuse to issue or renew or
23 suspend without hearing the license or certificate of
24 registration of any person who fails to file a return, or to
25 pay the tax, penalty or interest shown in a filed return, or to
26 pay any final assessment of tax, penalty or interest, as

1 required by any tax Act administered by the Illinois Department
2 of Revenue, until such time as the requirements of any such tax
3 Act are satisfied as determined by the Department of Revenue.

4 (5) The Department shall deny without hearing any
5 application for a license or renewal of a license under this
6 Act by a person who has defaulted on an educational loan
7 guaranteed by the Illinois Student Assistance Commission;
8 however, the Department may issue or renew a license if the
9 person in default has established a satisfactory repayment
10 record as determined by the Illinois Student Assistance
11 Commission.

12 (6) All fines imposed under this Section shall be paid
13 within 60 days after the effective date of the order imposing
14 the fine or in accordance with the terms set forth in the order
15 imposing the fine.

16 (7) In cases where the Department of Healthcare and Family
17 Services (formerly Department of Public Aid) has previously
18 determined that a licensee or a potential licensee is more than
19 30 days delinquent in the payment of child support and has
20 subsequently certified the delinquency to the Department, the
21 Department may refuse to issue or renew or may revoke or
22 suspend that person's license or may take other disciplinary or
23 non-disciplinary action against that person based upon the
24 certification of delinquency made by the Department of
25 Healthcare and Family Services in accordance with item (5) of
26 subsection (a) of Section 2105-15 of the Department of

1 Professional Law of the Civil Administrative Code of Illinois
2 unless, upon notification, the licensee demonstrates an
3 inability to pay and agrees to enter into a reasonable payment
4 plan.

5 Notwithstanding the provisions of this subsection (7), the
6 Department may not refuse to issue a license to a potential
7 licensee who is an obligor because the obligor's child support
8 arrearage equals or exceeds the amount of child support payable
9 for 6 months. When an occupational license is issued to an
10 applicant to whom this paragraph applies, the Department shall
11 send a written notice to the obligor following the issuance of
12 a license, advising the obligor that the obligor's license may
13 be revoked or suspended unless within 30 days of the postmarked
14 date of the notice, the obligor demonstrates the inability to
15 pay and enters into a reasonable payment plan.

16 (Source: P.A. 98-911, eff. 1-1-15; 99-427, eff. 8-21-15.)

17 Section 20. The Illinois Public Accounting Act is amended
18 by changing Section 20.01 as follows:

19 (225 ILCS 450/20.01) (from Ch. 111, par. 5521.01)

20 (Section scheduled to be repealed on January 1, 2024)

21 Sec. 20.01. Grounds for discipline; license or
22 registration.

23 (a) The Department may refuse to issue or renew, or may
24 revoke, suspend, or reprimand any registration or registrant,

1 any license or licensee, place a licensee or registrant on
2 probation for a period of time subject to any conditions the
3 Department may specify including requiring the licensee or
4 registrant to attend continuing education courses or to work
5 under the supervision of another licensee or registrant, impose
6 a fine not to exceed \$10,000 for each violation, restrict the
7 authorized scope of practice, require a licensee or registrant
8 to undergo a peer review program, assess costs as provided for
9 under Section 20.4, or take other disciplinary or
10 non-disciplinary action for any one or more of the following:

11 (1) Violation of any provision of this Act or rule
12 adopted by the Department under this Act or violation of
13 professional standards.

14 (2) Dishonesty, fraud, or deceit in obtaining,
15 reinstating, or restoring a license or registration.

16 (3) Cancellation, revocation, suspension, denial of
17 licensure or registration, or refusal to renew a license or
18 privileges under Section 5.2 for disciplinary reasons in
19 any other U.S. jurisdiction, unit of government, or
20 government agency for any cause.

21 (4) Failure, on the part of a licensee under Section 13
22 or registrant under Section 16, to maintain compliance with
23 the requirements for issuance or renewal of a license or
24 registration or to report changes to the Department.

25 (5) Revocation or suspension of the right to practice
26 by or before any state or federal regulatory authority or

1 by the Public Company Accounting Oversight Board.

2 (6) Dishonesty, fraud, deceit, or gross negligence in
3 the performance of services as a licensee or registrant or
4 individual granted privileges under Section 5.2.

5 (7) Conviction by plea of guilty or nolo contendere,
6 finding of guilt, jury verdict, or entry of judgment or
7 sentencing, including, but not limited to, convictions,
8 preceding sentences of supervision, conditional discharge,
9 or first offender probation, under the laws of any
10 jurisdiction of the United States that is ~~(i)~~ a felony or
11 ~~(ii)~~ a misdemeanor, an essential element of which is
12 dishonesty, or that is directly related to the practice of
13 public accounting, and absent mitigating factors and
14 evidence of rehabilitation provided in subsection (a-5) of
15 this Section.

16 (8) Performance of any fraudulent act while holding a
17 license or privilege issued under this Act or prior law.

18 (9) Practicing on a revoked, suspended, or inactive
19 license or registration.

20 (10) Making or filing a report or record that the
21 registrant or licensee knows to be false, willfully failing
22 to file a report or record required by State or federal
23 law, willfully impeding or obstructing the filing or
24 inducing another person to impede or obstruct only those
25 that are signed in the capacity of a licensed CPA or a
26 registered CPA.

1 (11) Aiding or assisting another person in violating
2 any provision of this Act or rules promulgated hereunder.

3 (12) Engaging in dishonorable, unethical, or
4 unprofessional conduct of a character likely to deceive,
5 defraud, or harm the public.

6 (13) Habitual or excessive use or abuse of drugs,
7 alcohol, narcotics, stimulants, or any other substance
8 that results in the inability to practice with reasonable
9 skill, judgment, or safety.

10 (14) Directly or indirectly giving to or receiving from
11 any person, firm, corporation, partnership, or association
12 any fee, commission, rebate, or other form of compensation
13 for any professional service not actually rendered.

14 (15) Physical illness, including, but not limited to,
15 deterioration through the aging process or loss of motor
16 skill that results in the licensee or registrant's
17 inability to practice under this Act with reasonable
18 judgment, skill, or safety.

19 (16) Solicitation of professional services by using
20 false or misleading advertising.

21 (17) Any conduct reflecting adversely upon the
22 licensee's fitness to perform services while a licensee or
23 individual granted privileges under Section 5.2.

24 (18) Practicing or attempting to practice under a name
25 other than the full name as shown on the license or
26 registration or any other legally authorized name.

1 (19) A finding by the Department that a licensee or
2 registrant has not complied with a provision of any lawful
3 order issued by the Department.

4 (20) Making a false statement to the Department
5 regarding compliance with continuing professional
6 education or peer review requirements.

7 (21) Failing to make a substantive response to a
8 request for information by the Department within 30 days of
9 the request.

10 (a-5) When issuing a license, the Department may consider
11 an applicant's conviction or convictions but a prior conviction
12 or convictions alone may not be the basis for refusing to issue
13 a license unless the crime for which he or she was convicted
14 substantially and directly relates to the occupation for which
15 the license is sought.

16 If the conviction or convictions are used as a basis for
17 rejection of an application, it must be in writing and
18 specifically state the evidence presented and reasons for
19 rejection, which must be substantially and directly related to
20 the licensed activity. The Department must consider:

21 (1) the bearing, if any, the criminal offenses or
22 offenses for which the person was previously convicted will
23 have on his or her fitness or ability to perform one or
24 more such duties and responsibilities;

25 (2) the time which has elapsed since the occurrence of
26 the criminal offense or offenses;

1 (3) the age of the person at the time of occurrence of
2 the criminal offense or offenses;

3 (4) the seriousness of the offense or offenses; and

4 (5) any information produced by the person or produced
5 on his or her behalf in regard to his or her rehabilitation
6 and good conduct that creates a presumption of
7 rehabilitation.

8 For the purpose of issuance, renewal, or restoration of a
9 license, completion of a sentence of imprisonment or discharge
10 from probation, conditional discharge from probation, or
11 periodic imprisonment shall be treated as evidence of
12 rehabilitation so that all license rights and privileges
13 granted under this Act, under consideration for issuance, or
14 formerly revoked or suspended because of conviction of an
15 offense are automatically restored unless the Department finds
16 after investigation and consideration of guidelines provided
17 in items (1) through (4) of this subsection (a-5) that
18 restoration is not in the public interest.

19 The Department shall not consider non-conviction records,
20 convictions that did not result in incarceration, or
21 convictions unrelated to the capacity to serve the public.

22 (b) (Blank).

23 (b-5) All fines or costs imposed under this Section shall
24 be paid within 60 days after the effective date of the order
25 imposing the fine or costs or in accordance with the terms set
26 forth in the order imposing the fine or cost.

1 (c) In cases where the Department of Healthcare and Family
2 Services has previously determined a licensee or a potential
3 licensee is more than 30 days delinquent in the payment of
4 child support and has subsequently certified the delinquency to
5 the Department, the Department may refuse to issue or renew or
6 may revoke or suspend that person's license or may take other
7 disciplinary or non-disciplinary action against that person
8 based solely upon the certification of delinquency made by the
9 Department of Healthcare and Family Services in accordance with
10 item (5) of subsection (a) of Section 2105-15 of the Department
11 of Professional Regulation Law of the Civil Administrative Code
12 of Illinois unless, upon notification, the licensee
13 demonstrates an inability to pay and agrees to enter into a
14 reasonable payment plan.

15 Notwithstanding the provisions of this subsection, the
16 Department may not refuse to issue a license to a potential
17 licensee who is an obligor because the obligor's child support
18 arrearage equals or exceeds the amount of child support payable
19 for 6 months. When an occupational license is issued to an
20 applicant to this paragraph applies, the Department shall send
21 a written notice to the obligor following the issuance of a
22 license, advising the obligor that they obligor's license may
23 be revoked or suspended unless within 30 days of the postmarked
24 date of the notice, the obligor demonstrates an previous
25 inability to pay and enters into a reasonable payment plan.

26 (d) The Department may refuse to issue or may suspend

1 without hearing, as provided for in the Code of Civil
2 Procedure, the license or registration of any person who fails
3 to file a return, to pay a tax, penalty, or interest shown in a
4 filed return, or to pay any final assessment of tax, penalty,
5 or interest, as required by any tax Act administered by the
6 Illinois Department of Revenue, until such time as the
7 requirements of any such tax Act are satisfied in accordance
8 with subsection (g) of Section 2105-15 of the Department of
9 Professional Regulation Law of the Civil Administrative Code of
10 Illinois.

11 (e) The Department shall deny any application for a
12 license, registration, or renewal, without hearing, to any
13 person who has defaulted on an educational loan guaranteed by
14 the Illinois Student Assistance Commission; however, the
15 Department may issue a license, registration, or renewal if the
16 person in default has established a satisfactory repayment
17 record as determined by the Illinois Student Assistance
18 Commission.

19 (f) The determination by a court that a licensee or
20 registrant is subject to involuntary admission or judicial
21 admission as provided in the Mental Health and Developmental
22 Disabilities Code will result in the automatic suspension of
23 his or her license or registration. The licensee or registrant
24 shall be responsible for notifying the Department of the
25 determination by the court that the licensee or registrant is
26 subject to involuntary admission or judicial admission as

1 provided in the Mental Health and Developmental Disabilities
2 Code. The suspension shall end only upon a finding by a court
3 that the patient is no longer subject to involuntary admission
4 or judicial admission, the issuance of an order so finding and
5 discharging the patient, and the filing of a petition for
6 restoration demonstrating fitness to practice.

7 (g) In enforcing this Section, the Department, upon a
8 showing of a possible violation, may compel, any licensee or
9 registrant or any individual who has applied for licensure
10 under this Act, to submit to a mental or physical examination
11 and evaluation, or both, which may include a substance abuse or
12 sexual offender evaluation, at the expense of the Department.
13 The Department shall specifically designate the examining
14 physician licensed to practice medicine in all of its branches
15 or, if applicable, the multidisciplinary team involved in
16 providing the mental or physical examination and evaluation, or
17 both. The multidisciplinary team shall be led by a physician
18 licensed to practice medicine in all of its branches and may
19 consist of one or more or a combination of physicians licensed
20 to practice medicine in all of its branches, licensed
21 chiropractic physicians, licensed clinical psychologists,
22 licensed clinical social workers, licensed clinical
23 professional counselors, and other professional and
24 administrative staff. Any examining physician or member of the
25 multidisciplinary team may require any person ordered to submit
26 to an examination and evaluation under this Section to submit

1 to any additional supplemental testing deemed necessary to
2 complete any examination or evaluation process, including, but
3 not limited to, blood testing, urinalysis, psychological
4 testing, or neuropsychological testing. The Department may
5 order the examining physician or any member of the
6 multidisciplinary team to provide to the Department any and all
7 records, including business records, that relate to the
8 examination and evaluation, including any supplemental testing
9 performed. The Department may order the examining physician or
10 any member of the multidisciplinary team to present testimony
11 concerning this examination and evaluation of the licensee,
12 registrant, or applicant, including testimony concerning any
13 supplemental testing or documents relating to the examination
14 and evaluation. No information, report, record, or other
15 documents in any way related to the examination and evaluation
16 shall be excluded by reason of any common law or statutory
17 privilege relating to communication between the licensee,
18 registrant, or applicant and the examining physician or any
19 member of the multidisciplinary team. No authorization is
20 necessary from the individual ordered to undergo an evaluation
21 and examination for the examining physician or any member of
22 the multidisciplinary team to provide information, reports,
23 records, or other documents or to provide any testimony
24 regarding the examination and evaluation.

25 The individual to be examined may have, at his or her own
26 expense, another physician of his or her choice present during

1 all aspects of the examination. Failure of any individual to
2 submit to mental or physical examination and evaluation, or
3 both, when directed, shall result in an automatic suspension,
4 without hearing, until such time as the individual submits to
5 the examination. If the Department finds a licensee,
6 registrant, or applicant unable to practice because of the
7 reasons set forth in this Section, the Department shall require
8 such licensee, registrant, or applicant to submit to care,
9 counseling, or treatment by physicians approved or designated
10 by the Department, as a condition for continued, reinstated, or
11 renewed licensure to practice.

12 When the Secretary immediately suspends a license or
13 registration under this Section, a hearing upon such person's
14 license or registration must be convened by the Department
15 within 15 days after such suspension and completed without
16 appreciable delay. The Department shall have the authority to
17 review the subject's record of treatment and counseling
18 regarding the impairment, to the extent permitted by applicable
19 federal statutes and regulations safeguarding the
20 confidentiality of medical records.

21 Individuals licensed or registered under this Act,
22 affected under this Section, shall be afforded an opportunity
23 to demonstrate to the Department that they can resume practice
24 in compliance with acceptable and prevailing standards under
25 the provisions of their license or registration.

26 (Source: P.A. 98-254, eff. 8-9-13.)

1 Section 25. The Real Estate License Act of 2000 is amended
2 by changing Section 20-20 as follows:

3 (225 ILCS 454/20-20)

4 (Section scheduled to be repealed on January 1, 2020)

5 Sec. 20-20. Grounds for discipline.

6 (a) The Department may refuse to issue or renew a license,
7 may place on probation, suspend, or revoke any license,
8 reprimand, or take any other disciplinary or non-disciplinary
9 action as the Department may deem proper and impose a fine not
10 to exceed \$25,000 upon any licensee or applicant under this Act
11 or any person who holds himself or herself out as an applicant
12 or licensee or against a licensee in handling his or her own
13 property, whether held by deed, option, or otherwise, for any
14 one or any combination of the following causes:

15 (1) Fraud or misrepresentation in applying for, or
16 procuring, a license under this Act or in connection with
17 applying for renewal of a license under this Act.

18 (2) The conviction of or plea of guilty or plea of nolo
19 contendere to a felony or misdemeanor in this State or any
20 other jurisdiction; ~~or the entry of an administrative~~
21 ~~sanction by a government agency in this State or any other~~
22 ~~jurisdiction. Action taken under this paragraph (2) for a~~
23 ~~misdemeanor or an administrative sanction~~ is limited to a
24 misdemeanor or administrative sanction that has as an

1 essential element dishonesty or fraud or involves larceny,
2 embezzlement, or obtaining money, property, or credit by
3 false pretenses or by means of a confidence game and absent
4 mitigating factors and evidence of rehabilitation provided
5 in Section 5-25 of this Act.

6 (3) Inability to practice the profession with
7 reasonable judgment, skill, or safety as a result of a
8 physical illness, including, but not limited to,
9 deterioration through the aging process or loss of motor
10 skill, or a mental illness or disability.

11 (4) Practice under this Act as a licensee in a retail
12 sales establishment from an office, desk, or space that is
13 not separated from the main retail business by a separate
14 and distinct area within the establishment.

15 (5) Having been disciplined by another state, the
16 District of Columbia, a territory, a foreign nation, or a
17 governmental agency authorized to impose discipline if at
18 least one of the grounds for that discipline is the same as
19 or the equivalent of one of the grounds for which a
20 licensee may be disciplined under this Act. A certified
21 copy of the record of the action by the other state or
22 jurisdiction shall be prima facie evidence thereof.

23 (6) Engaging in the practice of real estate brokerage
24 without a license or after the licensee's license was
25 expired or while the license was inoperative.

26 (7) Cheating on or attempting to subvert the Real

1 Estate License Exam or continuing education exam.

2 (8) Aiding or abetting an applicant to subvert or cheat
3 on the Real Estate License Exam or continuing education
4 exam administered pursuant to this Act.

5 (9) Advertising that is inaccurate, misleading, or
6 contrary to the provisions of the Act.

7 (10) Making any substantial misrepresentation or
8 untruthful advertising.

9 (11) Making any false promises of a character likely to
10 influence, persuade, or induce.

11 (12) Pursuing a continued and flagrant course of
12 misrepresentation or the making of false promises through
13 licensees, employees, agents, advertising, or otherwise.

14 (13) Any misleading or untruthful advertising, or
15 using any trade name or insignia of membership in any real
16 estate organization of which the licensee is not a member.

17 (14) Acting for more than one party in a transaction
18 without providing written notice to all parties for whom
19 the licensee acts.

20 (15) Representing or attempting to represent a broker
21 other than the sponsoring broker.

22 (16) Failure to account for or to remit any moneys or
23 documents coming into his or her possession that belong to
24 others.

25 (17) Failure to maintain and deposit in a special
26 account, separate and apart from personal and other

1 business accounts, all escrow moneys belonging to others
2 entrusted to a licensee while acting as a broker, escrow
3 agent, or temporary custodian of the funds of others or
4 failure to maintain all escrow moneys on deposit in the
5 account until the transactions are consummated or
6 terminated, except to the extent that the moneys, or any
7 part thereof, shall be:

8 (A) disbursed prior to the consummation or
9 termination (i) in accordance with the written
10 direction of the principals to the transaction or their
11 duly authorized agents, (ii) in accordance with
12 directions providing for the release, payment, or
13 distribution of escrow moneys contained in any written
14 contract signed by the principals to the transaction or
15 their duly authorized agents, or (iii) pursuant to an
16 order of a court of competent jurisdiction; or

17 (B) deemed abandoned and transferred to the Office
18 of the State Treasurer to be handled as unclaimed
19 property pursuant to the Uniform Disposition of
20 Unclaimed Property Act. Escrow moneys may be deemed
21 abandoned under this subparagraph (B) only: (i) in the
22 absence of disbursement under subparagraph (A); (ii)
23 in the absence of notice of the filing of any claim in
24 a court of competent jurisdiction; and (iii) if 6
25 months have elapsed after the receipt of a written
26 demand for the escrow moneys from one of the principals

1 to the transaction or the principal's duly authorized
2 agent.

3 The account shall be noninterest bearing, unless the
4 character of the deposit is such that payment of interest
5 thereon is otherwise required by law or unless the
6 principals to the transaction specifically require, in
7 writing, that the deposit be placed in an interest bearing
8 account.

9 (18) Failure to make available to the Department all
10 escrow records and related documents maintained in
11 connection with the practice of real estate within 24 hours
12 of a request for those documents by Department personnel.

13 (19) Failing to furnish copies upon request of
14 documents relating to a real estate transaction to a party
15 who has executed that document.

16 (20) Failure of a sponsoring broker to timely provide
17 information, sponsor cards, or termination of licenses to
18 the Department.

19 (21) Engaging in dishonorable, unethical, or
20 unprofessional conduct of a character likely to deceive,
21 defraud, or harm the public.

22 (22) Commingling the money or property of others with
23 his or her own money or property.

24 (23) Employing any person on a purely temporary or
25 single deal basis as a means of evading the law regarding
26 payment of commission to nonlicensees on some contemplated

1 transactions.

2 (24) Permitting the use of his or her license as a
3 broker to enable a leasing agent or unlicensed person to
4 operate a real estate business without actual
5 participation therein and control thereof by the broker.

6 (25) Any other conduct, whether of the same or a
7 different character from that specified in this Section,
8 that constitutes dishonest dealing.

9 (26) Displaying a "for rent" or "for sale" sign on any
10 property without the written consent of an owner or his or
11 her duly authorized agent or advertising by any means that
12 any property is for sale or for rent without the written
13 consent of the owner or his or her authorized agent.

14 (27) Failing to provide information requested by the
15 Department, or otherwise respond to that request, within 30
16 days of the request.

17 (28) Advertising by means of a blind advertisement,
18 except as otherwise permitted in Section 10-30 of this Act.

19 (29) Offering guaranteed sales plans, as defined in
20 clause (A) of this subdivision (29), except to the extent
21 hereinafter set forth:

22 (A) A "guaranteed sales plan" is any real estate
23 purchase or sales plan whereby a licensee enters into a
24 conditional or unconditional written contract with a
25 seller, prior to entering into a brokerage agreement
26 with the seller, by the terms of which a licensee

1 agrees to purchase a property of the seller within a
2 specified period of time at a specific price in the
3 event the property is not sold in accordance with the
4 terms of a brokerage agreement to be entered into
5 between the sponsoring broker and the seller.

6 (B) A licensee offering a guaranteed sales plan
7 shall provide the details and conditions of the plan in
8 writing to the party to whom the plan is offered.

9 (C) A licensee offering a guaranteed sales plan
10 shall provide to the party to whom the plan is offered
11 evidence of sufficient financial resources to satisfy
12 the commitment to purchase undertaken by the broker in
13 the plan.

14 (D) Any licensee offering a guaranteed sales plan
15 shall undertake to market the property of the seller
16 subject to the plan in the same manner in which the
17 broker would market any other property, unless the
18 agreement with the seller provides otherwise.

19 (E) The licensee cannot purchase seller's property
20 until the brokerage agreement has ended according to
21 its terms or is otherwise terminated.

22 (F) Any licensee who fails to perform on a
23 guaranteed sales plan in strict accordance with its
24 terms shall be subject to all the penalties provided in
25 this Act for violations thereof and, in addition, shall
26 be subject to a civil fine payable to the party injured

1 by the default in an amount of up to \$25,000.

2 (30) Influencing or attempting to influence, by any
3 words or acts, a prospective seller, purchaser, occupant,
4 landlord, or tenant of real estate, in connection with
5 viewing, buying, or leasing real estate, so as to promote
6 or tend to promote the continuance or maintenance of
7 racially and religiously segregated housing or so as to
8 retard, obstruct, or discourage racially integrated
9 housing on or in any street, block, neighborhood, or
10 community.

11 (31) Engaging in any act that constitutes a violation
12 of any provision of Article 3 of the Illinois Human Rights
13 Act, whether or not a complaint has been filed with or
14 adjudicated by the Human Rights Commission.

15 (32) Inducing any party to a contract of sale or lease
16 or brokerage agreement to break the contract of sale or
17 lease or brokerage agreement for the purpose of
18 substituting, in lieu thereof, a new contract for sale or
19 lease or brokerage agreement with a third party.

20 (33) Negotiating a sale, exchange, or lease of real
21 estate directly with any person if the licensee knows that
22 the person has an exclusive brokerage agreement with
23 another broker, unless specifically authorized by that
24 broker.

25 (34) When a licensee is also an attorney, acting as the
26 attorney for either the buyer or the seller in the same

1 transaction in which the licensee is acting or has acted as
2 a managing broker or broker.

3 (35) Advertising or offering merchandise or services
4 as free if any conditions or obligations necessary for
5 receiving the merchandise or services are not disclosed in
6 the same advertisement or offer. These conditions or
7 obligations include without limitation the requirement
8 that the recipient attend a promotional activity or visit a
9 real estate site. As used in this subdivision (35), "free"
10 includes terms such as "award", "prize", "no charge", "free
11 of charge", "without charge", and similar words or phrases
12 that reasonably lead a person to believe that he or she may
13 receive or has been selected to receive something of value,
14 without any conditions or obligations on the part of the
15 recipient.

16 (36) Disregarding or violating any provision of the
17 Land Sales Registration Act of 1989, the Illinois Real
18 Estate Time-Share Act, or the published rules promulgated
19 by the Department to enforce those Acts.

20 (37) Violating the terms of a disciplinary order issued
21 by the Department.

22 (38) Paying or failing to disclose compensation in
23 violation of Article 10 of this Act.

24 (39) Requiring a party to a transaction who is not a
25 client of the licensee to allow the licensee to retain a
26 portion of the escrow moneys for payment of the licensee's

1 commission or expenses as a condition for release of the
2 escrow moneys to that party.

3 (40) Disregarding or violating any provision of this
4 Act or the published rules promulgated by the Department to
5 enforce this Act or aiding or abetting any individual,
6 partnership, registered limited liability partnership,
7 limited liability company, or corporation in disregarding
8 any provision of this Act or the published rules
9 promulgated by the Department to enforce this Act.

10 (41) Failing to provide the minimum services required
11 by Section 15-75 of this Act when acting under an exclusive
12 brokerage agreement.

13 (42) Habitual or excessive use or addiction to alcohol,
14 narcotics, stimulants, or any other chemical agent or drug
15 that results in a managing broker, broker, or leasing
16 agent's inability to practice with reasonable skill or
17 safety.

18 (43) Enabling, aiding, or abetting an auctioneer, as
19 defined in the Auction License Act, to conduct a real
20 estate auction in a manner that is in violation of this
21 Act.

22 (a-5) When issuing a license, the Department may consider
23 an applicant's conviction or convictions but a prior conviction
24 or convictions alone may not be the basis for refusing to issue
25 a license unless the crime for which he or she was convicted
26 substantially and directly relates to the occupation for which

1 the license is sought.

2 If the conviction or convictions are used as a basis for
3 rejection of an application, it must be in writing and
4 specifically state the evidence presented and reasons for
5 rejection, which must be substantially and directly related to
6 the licensed activity. The Department must consider:

7 (1) the bearing, if any, the criminal offenses or
8 offenses for which the person was previously convicted will
9 have on his or her fitness or ability to perform one or
10 more such duties and responsibilities;

11 (2) the time which has elapsed since the occurrence of
12 the criminal offense or offenses;

13 (3) the age of the person at the time of occurrence of
14 the criminal offense or offenses;

15 (4) the seriousness of the offense or offenses; and

16 (5) any information produced by the person or produced
17 on his or her behalf in regard to his or her rehabilitation
18 and good conduct that creates a presumption of
19 rehabilitation.

20 For the purpose of issuance, renewal, or restoration of a
21 license, completion of a sentence of imprisonment or discharge
22 from probation, conditional discharge from probation, or
23 periodic imprisonment shall be treated as evidence of
24 rehabilitation so that all license rights and privileges
25 granted under this Act, under consideration for issuance, or
26 formerly revoked or suspended because of conviction of an

1 offense are automatically restored unless the Department finds
2 after investigation and consideration of guidelines provided
3 in items (1) through (4) of this subsection (a-5) that
4 restoration is not in the public interest.

5 The Department shall not consider non-conviction records,
6 convictions that did not result in incarceration, or
7 convictions unrelated to the capacity to serve the public.

8 (b) The Department may refuse to issue or renew or may
9 suspend the license of any person who fails to file a return,
10 pay the tax, penalty or interest shown in a filed return, or
11 pay any final assessment of tax, penalty, or interest, as
12 required by any tax Act administered by the Department of
13 Revenue, until such time as the requirements of that tax Act
14 are satisfied in accordance with subsection (g) of Section
15 2105-15 of the Civil Administrative Code of Illinois.

16 (c) The Department shall deny a license or renewal
17 authorized by this Act to a person who has defaulted on an
18 educational loan or scholarship provided or guaranteed by the
19 Illinois Student Assistance Commission or any governmental
20 agency of this State in accordance with item (5) of subsection
21 (a) of Section 2105-15 of the Civil Administrative Code of
22 Illinois.

23 (d) In cases where the Department of Healthcare and Family
24 Services (formerly Department of Public Aid) has previously
25 determined that a licensee or a potential licensee is more than
26 30 days delinquent in the payment of child support and has

1 subsequently certified the delinquency to the Department may
2 refuse to issue or renew or may revoke or suspend that person's
3 license or may take other disciplinary action against that
4 person based solely upon the certification of delinquency made
5 by the Department of Healthcare and Family Services in
6 accordance with item (5) of subsection (a) of Section 2105-15
7 of the Civil Administrative Code of Illinois unless, upon
8 notification, the licensee demonstrates an inability to pay and
9 agrees to enter into a reasonable payment plan.

10 Notwithstanding the provisions of this subsection, the
11 Department may not refuse to issue a license to a potential
12 licensee who is an obligor because the obligor's child support
13 arrearage equals or exceeds the amount of child support payable
14 for 6 months. When an occupational license is issued to an
15 applicant to whom this paragraph applies, the Department shall
16 send a written notice to the obligor following the issuance of
17 a license, advising the obligor that they obligor's license may
18 be revoked or suspended unless within 30 days of the postmarked
19 date of the notice, the obligor demonstrates an previous
20 inability to pay and enters into a reasonable payment plan.

21 (e) In enforcing this Section, the Department or Board upon
22 a showing of a possible violation may compel an individual
23 licensed to practice under this Act, or who has applied for
24 licensure under this Act, to submit to a mental or physical
25 examination, or both, as required by and at the expense of the
26 Department. The Department or Board may order the examining

1 physician to present testimony concerning the mental or
2 physical examination of the licensee or applicant. No
3 information shall be excluded by reason of any common law or
4 statutory privilege relating to communications between the
5 licensee or applicant and the examining physician. The
6 examining physicians shall be specifically designated by the
7 Board or Department. The individual to be examined may have, at
8 his or her own expense, another physician of his or her choice
9 present during all aspects of this examination. Failure of an
10 individual to submit to a mental or physical examination, when
11 directed, shall be grounds for suspension of his or her license
12 until the individual submits to the examination if the
13 Department finds, after notice and hearing, that the refusal to
14 submit to the examination was without reasonable cause.

15 If the Department or Board finds an individual unable to
16 practice because of the reasons set forth in this Section, the
17 Department or Board may require that individual to submit to
18 care, counseling, or treatment by physicians approved or
19 designated by the Department or Board, as a condition, term, or
20 restriction for continued, reinstated, or renewed licensure to
21 practice; or, in lieu of care, counseling, or treatment, the
22 Department may file, or the Board may recommend to the
23 Department to file, a complaint to immediately suspend, revoke,
24 or otherwise discipline the license of the individual. An
25 individual whose license was granted, continued, reinstated,
26 renewed, disciplined or supervised subject to such terms,

1 conditions, or restrictions, and who fails to comply with such
2 terms, conditions, or restrictions, shall be referred to the
3 Secretary for a determination as to whether the individual
4 shall have his or her license suspended immediately, pending a
5 hearing by the Department.

6 In instances in which the Secretary immediately suspends a
7 person's license under this Section, a hearing on that person's
8 license must be convened by the Department within 30 days after
9 the suspension and completed without appreciable delay. The
10 Department and Board shall have the authority to review the
11 subject individual's record of treatment and counseling
12 regarding the impairment to the extent permitted by applicable
13 federal statutes and regulations safeguarding the
14 confidentiality of medical records.

15 An individual licensed under this Act and affected under
16 this Section shall be afforded an opportunity to demonstrate to
17 the Department or Board that he or she can resume practice in
18 compliance with acceptable and prevailing standards under the
19 provisions of his or her license.

20 (Source: P.A. 98-553, eff. 1-1-14; 98-756, eff. 7-16-14;
21 99-227, eff. 8-3-15.)